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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/942,435
	Filing Date	August 29, 2001
	First Named Inventor	John R. SCHWIER
	Art Unit	1654
	Examiner Name	M. Audet
Total Number of Pages in This Submission	7 + 8 References	Attorney Docket Number 342312003401

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment/Reply  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____	<input checked="" type="checkbox"/> After Allowance Communication to Group - 4 pages  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  1. Appendix A + copy - 2 pages 2. 8 References 3. Return Receipt Postcard
<div>Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	MORRISON & FOERSTER LLP Kimberly A. Bolin - 44,546 <div>Customer Number: 25226</div>
Signature	
Date	January 14, 2004

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 332778245 US, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.	
Dated: January 14, 2004	Signature:  (Tia Zimmerman)



PATENT  
Docket No. 342312003401

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Dated: 1/14/04 Signature: Tia Zimmerman (Tia Zimmerman)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

John R. SCHWIER et al.

Serial No.: 09/942,435

Filing Date: August 29, 2001

For: PROCESSES FOR MAKING  
PHARMACEUTICAL ORAL ECB  
FORMULATIONS AND  
COMPOSITIONS

Examiner: M. Audet

Group Art Unit: 1654

COMMUNICATION TO THE EXAMINER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Co-filed herewith are 8 references to be placed in the file and reviewed at the discretion of the Examiner.

## REMARKS

Co-filed herewith are 8 references which the Applicants respectfully request be placed in the file prior to issuance of the application. The Applicants understand that the Examiner is under no obligation to review the submitted references, as a Notice of Allowance has already been mailed in connection with the present application, but would appreciate the enclosed references being made of record.

The documents numbered 1, 2, and 7 listed on the attached Appendix were cited in an International Search Report mailed on December 9, 2003 (copy attached with Appendix of References) directed to the PCT application related to co-pending U.S. Application Ser. No. 10/172,678.

Applicants would also like to bring to the attention of the Examiner the additional co-pending applications and recently issued patents:

Item number 3 (U.S. 2003/0220236) listed in the attached Appendix is a related application, attorney docket number 342312001902, formerly cited in an Information Disclosure Statement cover letter of May 15, 2003, as application serial number 10/378,004.

Item number 4 (U.S. 6,590,073) listed in the attached Appendix is a related patent, attorney docket number 342312003901, formerly cited in an Information Disclosure Statement of May 15, 2003, as application 2002-0161176.

Item number 5 (U.S. 6,653,281) listed in the attached Appendix is a related application, attorney docket number 342312001700, formerly cited in an Information Disclosure Statement cover letter of May 15, 2003, as application serial number 09/763,114.

Item number 6 (U.S. 6,670,324) listed on the attached Appendix is a related patent, attorney docket number 342312002910, formerly cited in an Information Disclosure Statement cover letter of May 15, 2003, as application serial number 10/378,004.

The Applicants respectfully request confirmation of receipt of this communication and receipt of the references by the Examiner. The Applicants entreat the Examiner to request the application file in order that the references may be placed in the file prior to issuance. Applicants would appreciate the Examiner initialing and returning the attached Appendix, indicating that the information has been considered. Should the Examiner have any questions, he is encouraged to telephone the undersigned.

The Applicants also note, further to our telephone message of January 13, 2004 left for the Examiner, that the initialed PTO-1449 from the Supplemental Information Disclosure Statement filed with the Office on May 15, 2003 has not been returned to the Applicants. The Applicants respectfully request return of the initialed PTO-1449 at the Examiner's earliest convenience so that they may institute payment of the Issue Fee. Review of the USPTO PAIRS database indicates that the Office has received the Supplemental Information Disclosure Statement. However, should any of the documentation or references be missing from the file, the Applicants will supply duplicate copies immediately upon request of the Examiner.

Applicants believe no fees are due. However, in the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief (such as payment of a fee under 37 C.F.R. §1.17(p)) is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing 342312003401. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: January <sup>14</sup>14, 2004

Respectfully submitted,

By: 

Kimberly A. Bolin  
Registration No. 44,546

Morrison & Foerster LLP  
755 Page Mill Road  
Palo Alto, California 94304-1018  
Telephone: (650) 813-5740  
Facsimile: (650) 494-0792  
Patent Agent



**Appendix A**  
**Reference Citations**  
**U.S. Documents**

Examiner Initials	No.	Date	Document No.	Name
	1.	02/27/2003	2003/0039667	Jira et al.
	2.	06/05/2003	2003/0104048	Patel et al.
	3.	11/27/2003	2003/0220236	Burkhardt et al.
	4.	07/08/2003	6,590,073	Dalder et al.
	5.	11/25/2003	6,653,281	Borromeo et al.
	6.	12/30/2003	6,670,324	Jamison et al.

**Other Documents**

Examiner Initials	No.	Title <i>(including author, title, Date, Pertinent Pages, Etc.)</i>
	7.	Groll, A.H. et al. (2001). "Pharmacokinetic and Pharmacodynamic Modeling of Anidulafungin (LY303366): Reappraisal of Its Efficacy in Neutropenic Animal Models of Opportunistic Mycoses Using Optimal Plasma Sampling," <i>Antimicrobial Agents and Chemotherapy</i> 45(10):2845-2855.
	8.	International Search Report mailed on December 9, 2003, for PCT Patent Application No. PCT/US03/18754 filed on June 12, 2003, 5 pages.